

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In re:)	
)	
Parker Broadcasting of Dakota License, LLC)	
)	CSR-_____
Must-Carry Complaint Regarding)	
Television Station KRDK-TV,)	
Valley City, North Dakota)	
To: Office of the Secretary		
Attn: Chief, Media Bureau		

MUST-CARRY COMPLAINT

Parker Broadcasting of Dakota License, LLC (“Parker”), pursuant to Section 614 of the Communications Act of 1934, as amended, and Sections 76.7 and 76.61 of the Commission’s Rules, hereby files this Complaint requesting that the Commission order Cable One, Inc. (“Cable One”) to carry local commercial television station KRDK-TV, licensed to serve Valley City, North Dakota (the “Station”) in accordance with the Commission’s must carry rules and policies on all of Cable One’s cable television systems (the “Systems”) throughout the Fargo-Valley City, North Dakota designated market area (the “DMA”) for the remaining duration of the current must carry election cycle, expiring December 31, 2017.

I. CABLE ONE HAS DENIED KRDK-TV ITS FULL CARRIAGE RIGHTS

In a letter dated January 25, 2016 (the “Carriage Request”), Parker notified Cable One that its failure to carry the Station throughout the DMA constituted a failure by Cable One to comply with the Commission’s must-carry rules. A copy of the Carriage Request is attached to this Petition at its Exhibit 1. The Carriage Request demanded that Cable One commence carriage of the Station on KRDK-TV’s over-the-air channel 4 on all of Cable One’s cable Systems serving the DMA.

Cable One responded to Parker by letter dated February 11, 2016, a copy of which is attached to this Petition as Exhibit 2 (the “Carriage Denial”). The Carriage Denial denied carriage to the Station on Cable One’s Systems based on a claimed channel positioning conflict arising from a contractual arrangement between Cable One and another broadcaster in the market.

Section 76.61(a)(5) provides that any must-carry complaint must be filed within 60 days of either a cable operator’s denial of a carriage request or the expiration of the 30-day response period set forth in Section 76.61(a)(2). The Carriage Denial was dated February 11, 2016, and this Complaint is therefore timely filed under Section 76.61(a)(5).

II. KRDK-TV IS ENTITLED TO MANDATORY CARRIAGE ON CHANNEL 4 ON ALL OF CABLE ONE’S CABLE SYSTEMS IN THE FARGO DMA

Under the Communications Act and the Commission’s Rules, a station is entitled to mandatory carriage on cable systems if it is a “local commercial television station,” as defined in Section 76.55(c) of the Commission’s Rules. Section 76.55(c) defines a “local commercial television station” as any full power television broadcast station that is 1) licensed to a community within the same television market as the cable system, 2) not considered a distant signal pursuant to the cable compulsory copyright license, and 3) capable of delivering a good quality over-the-air signal to the system’s principal headend or willing to agree to be responsible for the costs of delivering such a signal through alternative means. KRDK-TV qualifies as a local commercial television station on the Systems operated by Cable One in the DMA and therefore is entitled to mandatory carriage.

Pursuant to Section 76.55(e) a station’s television market is defined as its designated market area as assigned by Nielsen Media Research. The Station is licensed to serve the community of Valley City, North Dakota and is in the Fargo-Valley City, North Dakota, DMA.¹ Cable One’s

¹ See Television and Cable Factbook 2016 at A-967.

Systems also serve communities located within the DMA, and are therefore within the same local market as KRDK-TV. For the same reasons, KRDK-TV would not be considered a “distant signal” for copyright purposes. KRDK-TV delivers a good quality over-the-air signal to the Systems’ headends, and in the event that any such headend is unable to receive such a good quality signal, Parker is willing to agree to be responsible for the costs of delivering such a signal through alternative means. KRDK-TV did not make an election between must-carry and retransmission consent on Cable One’s Systems prior to October 1, 2014 and, as a result, defaulted to must-carry status.² This Petition was preceded by a written request for carriage delivered to Cable One and Cable One has not identified any valid defense to the request for carriage.

In the Carriage Denial, Cable One refused to carry KRDK-TV on its Systems based on an alleged channel positioning conflict created by a contractual relationship between Cable One and KVLV-TV, another local broadcast station. As the Bureau has previously made clear, however, such an agreement cannot serve as the basis of a denial of carriage, nor of Parker’s request for placement on Channel 4. In a 2010 decision, the Bureau explicitly stated that “the properly asserted and validly claimed channel placement rights of a must-carry station trump the contractual agreement of a first-in-time retransmission consent station.”³ The records included in KVLV-TV’s online public file make clear that KVLV-TV did in fact elect retransmission consent on the Systems for the carriage cycle ending December 31, 2017.⁴ Moreover, KVLV-TV has never operated on over-the-air channel 4 and accordingly cannot have rights to that channel except by contract as a

² The current owners of KRDK-TV did not acquire control of the station until December 18, 2014 (*see* BTCCDT-20140925ACK), but have been informed that no affirmative election was made by the prior owners.

³ Channel 20 TV Co. v. Bresnan Communications, 25 FCC Rcd 2219, ¶ 13 (2010).

⁴ https://stations.fcc.gov/collect/files/61961/Must-carry%20or%20retransmission%20consent/Retransmission%202015%20-%202017/KVLV-TV%20retransmission%20sent%202015_2017%20%20-%20Cable%20One%20%2814123711514902%29.pdf.

retransmission consent station, rights which are clearly secondary to KRDK-TV's right to positioning on Channel 4. Accordingly, the existence of an agreement between Cable One and KRDK-TV provides no basis for Cable One to deny carriage on Channel 4 to KRDK-TV.⁵

CONCLUSION

Parker is clearly entitled to mandatory carriage of the signal of KRDK-TV on Channel 4 on all cable systems operated by Cable One in the Fargo-Valley City DMA. KRDK-TV has elected mandatory carriage and has notified Cable One of such election and of its request for placement on Channel 4. Parker has notified Cable One that its failure to comply with these requests constitutes a violation of the Commission's mandatory carriage rules with respect to KRDK-TV. Cable One has refused in writing to carry KRDK-TV on Channel 4 or any other channel, forcing Parker to file this Complaint. For the reasons set forth herein, Parker hereby respectfully requests that the Commission order Cable One to carry KRDK-TV on Channel 4 throughout the Fargo-Valley City, North Dakota DMA in accordance with the must carry rules and policies.

⁵ Even if there was a legitimate channel positioning conflict on Channel 4, this still would provide no basis for Cable One to completely deny carriage to KRDK-TV. *See* 47 C.F.R. 76.57(f). Parker notes that other MVPDs in the DMA have commenced carriage of KRDK-TV on alternative channels. While Parker reserves the right to enforce its rights to placement on Channel 4 on such systems, Cable One's failure to carry KRDK-TV on any channel is particularly egregious.

Respectfully submitted,

PARKER BROADCASTING OF DAKOTA LICENSE, LLC

By: /s/ Davina S. Sashkin
Davina S. Sashkin
Peter Tannenwald
Daniel A. Kirkpatrick
Its Counsel

FLETCHER, HEALD & HILDRETH, PLC
1300 North 17th Street, Suite 1100
Arlington, VA 22209
(703) 812-0400

March 2, 2016

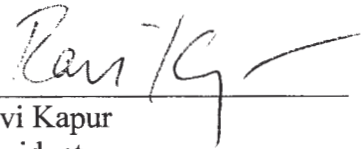
**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In re:)
)
Parker Broadcasting of Dakota License, LLC)
) CSR-_____
Must-Carry Complaint Regarding)
Television Station KRDK-TV,)
Valley City, North Dakota)

To: Office of the Secretary
Attn: Chief, Media Bureau

DECLARATION OF RAVI KAPUR

1. My name is Ravi Kapur. I am President of Parker Broadcasting of Dakota License, LLC, licensee of KRDK-TV.
2. I have reviewed the foregoing Must-Carry Complaint and all factual matters set forth therein are true to the best of my knowledge and belief. To the best of my knowledge, information, and belief formed after reasonable inquiry, the foregoing Must-Carry Complaint is well grounded in fact; warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and is not interposed for any improper purpose.
3. KRDK-TV made a default election for mandatory carriage of the station's signal on all cable systems operated by Cable One in the Fargo, North Dakota DMA during the election cycle expiring December 31, 2017.
4. On January 25, 2016, I mailed a letter to Cable One notifying Cable one of its failure to retransmit the signal of KRDK-TV on all of its cable systems in the Fargo DMA and requesting that Cable One commence such carriage on the station's over-the-air Channel 4. Cable One responded by letter dated February 11, 2016 denying carriage on all Cable One systems in the Fargo DMA.



Ravi Kapur
President
Parker Broadcasting of Dakota License, LLC

Date: _____

2/20/16

EXHIBIT 1

KRDK-TV Channel 4
The Station For All.

Major Market Broadcasting of North Dakota, Inc.
Parker Broadcasting of Dakota Licensee, LLC
2118 Walsh Avenue, Suite 208
Santa Clara, California 95050
415.886.7284

January 25, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Scott Geston
Cable One Inc.
1024 Page Drive
Fargo, ND 58103

Re: KRDK-TV Must-Carry Demand

Dear Mr. Geston,

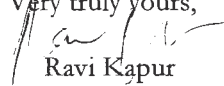
Television station KRDK-TV, FCC Facility ID 49134, Valley City, North Dakota, hereby exercises its must-carry rights on your cable television system or systems serving subscribers in the Fargo-Valley City Designated Market Area (DMA). This is our second formal request for carriage, under the mandatory carriage provisions of Section 614(b)(1)(B) of the Communications act of 1934, as amended, 47 U.S.C. § 534(b)(1)(B), and Section 76.56(b)(2) of the Rules and Regulations of the Federal Communications Commission (FCC).

KRDK-TV's community of license and your cable system are both located in the Fargo-Valley City DMA. Therefore, the Communications Act and the FCC's Rules require your cable system to carry KRDK-TV unless the station elects retransmission status. KRDK-TV either elected must-carry status by October 1, 2014, or failed to make any election, in which case it is a must-carry station by default under Section 76.64(f)(3) of the FCC's Rules.

KRDK-TV has the right to be carried on the cable channel which corresponds to its over-the-air virtual channel number, pursuant to Section 76.57(f) of the FCC's Rules. We request carriage on cable channel 4, which corresponds to the station's over-the-air virtual channel. The channel on which the station is carried must be included in your system's basic tier, distributed to all subscribers.

KRDK-TV is aware of the petition pending before the FCC to require the station to change its virtual channel number. We believe firmly that the petition has no merit; but in any event, the petition is irrelevant to your carriage obligations unless and until the FCC issues an order changing KRDK-TV's virtual channel number and such order becomes effective after completion of any appeal procedures. KRDK-TV has broadcast on analog Channel 4 or on digital virtual Channel 4 for more than 60 years, so the station's right to carriage on cable Channel 4 is neither new nor unusual. I have enclosed a copy of our response in the event you have not received it.

To the extent that we have previously communicated with you, it was to inform you of our election to be a must-carry station. In contrast, this letter is a formal demand for carriage consistent with our must-carry status. We request your response within 30 days, and sooner if possible. If you do not respond in 30 days, the FCC's rules consider that to be a rejection, starting the time clock for us to file a formal petition asking the FCC to order you to carry KRDK-TV on Cable Channel 4.

Very truly yours,

Ravi Kapur
KRDK-TV President

Before the
Federal Communications Commission
Washington, D.C. 20554

PLEASE STAMP
AND RETURN
THIS COPY TO
FLETCHER, HEALD & HILDRETH

In the Matter of)
)
GRAY TELEVISION LICENSEE, LLC)
KVLV-TV, Fargo, North Dakota)
Facility Identification Number 61961)
)
PARKER BROADCASTING OF)
DAKOTA LICENSE, LLC)
KRDK-TV, Valley City, North Dakota)
Facility Identification Number 49134)
)
Petition for Waiver of Program and System)
Protocol (PSIP) Standard to Provide an)
Alternative PSIP Major Channels to)
KVLV-TV and KRDK-TV)

Accepted / Filed

OCT 21 2015

Federal Communications Commission
Office of the Secretary

Directed to: Office of the Secretary
Attention: Chief, Media Bureau

**OPPOSITION TO PETITION FOR WAIVER AND
REQUEST FOR REASSIGNMENT OF PSIP CHANNELS**

Parker Broadcasting of Dakota License, LLC ("Parker"), licensee of digital television station KRDK-TV, Valley City, North Dakota, hereby opposes the "Petition for Waiver and Request for Reassignment of PSIP Channels" (the "Petition") filed on October 7, 2015, by Gray Television Licensee, LLC ("Gray"), licensee of digital television station KVLV-TV, Fargo, North Dakota. With respect thereto, the following is submitted:

Gray's Petition seeks an extraordinary waiver of the Program and System Information Protocol ("PSIP") set out in the Advanced Television Systems Committee ("ATSC") bulletin A/65C, with Amendment No. 1, dated May 9, 2006, and incorporated by reference at Sections 73.682 and 73.8000 of the Commission's Rules, so that it may add an additional major channel number and operate one of the KVLV-TV multicast subchannels with a major channel number

different from that of KVLV-TV's primary channel. But Gray's proposal is not only to have a second major channel number but to take it away from the station to which that number has always belonged and still rightfully belongs. The result would be to deprive KRDK-TV of the major channel on which it has operated since the digital transition and, importantly, of its right to elect mandatory carriage on multichannel video providers on that channel. The theoretical reason that Gray offers for this scheme is that Gray previously managed, before control of Parker was transferred to its current owners, to remove a major network affiliation from KRDK-TV and transfer it to a subchannel of Gray's own KVLV-TV. Gray claims that a second major channel number would prevent viewer confusion. It is clear, however, that viewer confusion is actually Gray's goal; it is seeking to convince viewers that the two network affiliates are still different stations, not different multicast subchannels of the same station.

In so doing Gray is also attempting to suppress competition from KRDK-TV by depriving KRDK-TV of its commercially valuable, VHF-range major channel number. Having arranged for a spin-off of KRDK-TV to a minority purchaser, and having taken full credit for doing so (see Exhibit 1 hereto, which consists of press coverage and Gray's own press release), Gray is now seeking to strip a critical asset from that station, damaging that station's ability to compete in the market. Gray's enunciated theory of disruption created by migration of a network affiliation to a multicast subchannel is obvious window-dressing.

Shift of a network affiliation from one station to another -- and thus from one channel number to another -- is a routine part of the television business. While generally somewhat infrequent, such a development is certainly not a circumstance so extraordinary as to justify an involuntary major channel number change that would be entirely contrary to the PSIP standard. It is clear that the real motivation is not any real concern about viewers, except to the extent that

Gray seeks an unfair competitive advantage in seeking to attract viewers to its own programming. Parker, on the other hand, seeks only to compete in the marketplace, without the artificial disadvantage of having the virtual channels for all of its streams far removed from those of other stations in the market.

The matter before the Commission at this point is quite simple and should be answered simply. As noted above ATSC A/65C was incorporated by reference at Section 73.682 and 73.8000 of the Commission's Rules. Annex B to ATSC A/65C governs the assignment of major channel numbers for digital television broadcasts in the United States. The first subparagraph of the first paragraph of Annex B provides: "For broadcasters with existing NTSC licenses, the major_channel_number [sic] for the existing NTSC channels, *as well as the digital virtual channels*, controlled by the broadcaster, shall be set to the current NTSC RF channel number." NTSC A/65C, Annex B 1(1), emphasis added. KRDK-TV was, in fact, a station with an existing NTSC channel at the time of digital transition. A brief look at the Commission's Consolidated Data Base ("CDBS") records will demonstrate that KRDK-TV was licensed as an NTSC broadcast station before 1979. The same is true of KVLV-TV, which also was licensed as an NTSC station before 1979. Therefore, both KRDK-TV and KVLV-TV are bound by subparagraph 1) of Annex B, and that is the end of the matter.

Moreover, the language of Annex B quoted above makes it quite clear that the same major channel number is ordinarily to apply to all of the digital multicast channels associated with the same station. There is, however, a provision which allows a station to use a second major channel number for programming which it wishes to differentiate from its other programming. Specifically, subparagraph 9) of Paragraph 1 of Annex B states: "Values for major_channel_number [sic] from 70 to 99 may be used to identify groups of digital services

carried in an ATSC multiplex that the broadcaster wishes to be identified by a different major channel number.” ATSC A/65C, Annex B 1.9. Therefore, if Gray wishes to use a second major channel number to distinguish its CBS affiliate multicast channel from its other multicast channels, it may do so, but it must use a major channel number in the range from 70 to 99. Such a designation has the advantages of both complying with the PSIP and eliminating any confusion among KVLV-TV’s various affiliations, and Parker would have no objection.

Gray is arguing that due to some allegedly extraordinary circumstances, it should be afforded a waiver of both subparagraphs 1 and 9 of the PSIP standard and further allowed to seize KRDK-TV’s PSIP major channel for itself. No such waiver is called for, or even permissible, for at least two distinct reasons.

First, neither the PSIP standard nor any other portion of the Commission’s Rules makes any provision for one television licensee to seize for its own use another, unwilling licensee’s major channel number. Such a conversion is particularly outrageous when the major channel being taken is one with significant commercial value, and it is being removed from a station licensed to a smaller, minority-owned broadcaster. If the Commission were to approve this major channel grab, it would set a precedent that would encourage broadcasters to look around for the most advantageous PSIP held by a smaller competitor, and then trump up some reason to take it.

Second, there is no extraordinary circumstance justifying a waiver here. Gray is correct that the current ownership of KRDK-TV came about because after Gray purchased KVLV-TV, which then had a shared services and joint sales agreement with the former owners of KRDK-TV, the Commission ruled that such arrangements should not continue, and Gray arranged for a transfer of control of Parker to its new, minority owners. As a part of that transfer of control,

Gray arranged for the removal of the CBS network affiliation from KRDK-TV to KVLV-TV and began carrying CBS network programming on a subchannel.

Shortly before the transfer of control was consummated, the former owners of KRDK-TV took the station dark. After the closing, under new ownership, Parker changed the station call letters, sought to replace the CBS programming which had been removed from the station, and brought the station back in the air in less than six months' time. It reached agreements to carry several of the smaller networks, commonly known as netlets or digicasters, and KRDK-TV has been broadcasting on a regular schedule for some months now.

A brief period of silence, followed by a return to operation, does not somehow convert a station that has been licensed for decades to a new station, which never had an NTSC license. Much as Gray might wish otherwise, there is no way to alter history. KRDK-TV operated for decades on NTSC Channel 4 and has operated since the digital transition on PSIP major channel number 4. It did not relocate to newly enter the Fargo market. Nothing can change those facts. If it were otherwise, any television station that was struck by lightning, suffered a tower collapse due to a major ice storm, or went through some other cataclysm would suddenly find itself labelled as a "new" station, subject to having its virtual channel forcibly changed by a competitor in the market.

Likewise, a change in call sign has no bearing on a station's status as an existing station. Television stations may change call signs at any time to any available call sign and not infrequently do so, whether in connection with a change of ownership or otherwise. Most assuredly, the change in call sign of the station formerly known as WTOP-TV, Washington, D.C., first to WDVM-TV and then in short order to WUSA, in connection with the purchase of the station by Gannett did not make that station a new station in the market.

Nor can a loss or change in network affiliation agreements change the basic nature of a station. A network affiliation agreement, by its very nature, has a set term and is not permanent. While many such agreements are routinely renewed for many years, such is by no means necessarily the case. There are many famous or infamous examples of stations which have chosen to change network affiliation and networks that have chosen to affiliate with different stations for various business reasons. A station's identity is not one and the same as its network affiliation, nor are the two inextricably linked. A station cannot be changed into a new station, which never had an NTSC license, by either a period of silence or a change in network affiliation. There is, therefore, absolutely no basis or justification for treating KRDK-TV as a new station.

Furthermore, the possibility of viewer confusion cannot be used here as an excuse for making an involuntary change to KRDK-TV's major channel number. As Gray itself has acknowledged, the current network affiliation arrangement has been in place since December 2014, nearly a year. Over-the-air viewers will have become used to locating CBS network programming on KVLV-TV's Channel 11.2. Requiring such viewers to change yet again to go back to finding CBS on Channel 4.1 would actually be more disruptive than maintaining the *status quo*. For viewers who use cable or satellite for reception, some of them may have to make a one-time adjustment in the channel to which they tune for CBS programming, but with notice, such adjustments cause little disruption. Indeed, changes of this nature are contemplated by the Commission, which has made provision for them in its rules. *See* 47 C.F.R. Section 76.1601. Moreover, Gray has itself already discussed the change in channel location in the local press in the market. *See, KXJB Sold: CBS programming will live on as KX4* at Exhibit 1. Clearly, at this point, making a further change would be more disruptive than helpful.

The Commission has stated that it will allow a waiver of the PSIP standards in unique or extraordinary circumstances. Clearly, however, there is nothing either unique or extraordinary about the circumstances at hand. While the Commission has in the past allowed some PSIP changes, upon which the parties mutually agreed, when network affiliations exchanged hands, it has not allowed any involuntary PSIP changes simply because a network affiliation went from one party to another. There is no precedent for such a decision, nor is there any reason to adopt such a policy now. Network affiliation changes arise in the ordinary course of business, and to allow them to become the basis for a change in major channel number would eviscerate the ASTC PSIP standard and result in chaos.

What is extraordinary, however, is the history of Gray's conduct in obtaining the CBS affiliation in question. As noted above, Gray is the licensee of KVLV-TV. Gray has acknowledged that it was a party to a shared services and joint sales agreement with KRDK-TV, when that station was under its prior ownership. Gray also acquired an option, which it was unable at that time legally to exercise for itself, to purchase KRDK-TV, but which it could use to select another purchaser. As was revealed in the application for consent to transfer of control of Parker to its current ownership, Gray utilized that option in order to select the current, minority ownership of Parker. Gray did not, however, own KRDK-TV, nor could it theoretically have controlled the station through either its shared services/joint sales agreement or option agreement.¹

At that time, KRDK-TV was an affiliate of CBS through an affiliation agreement with its licensee, Parker. Nonetheless, despite the fact that Gray was not the CBS affiliate nor in control

¹ Indeed, if Gray were to claim that it had controlled the station pursuant to the shared services/joint sales agreement, then it would be confessing to an unauthorized transfer of control, which it surely cannot mean to do.

of KRDK-TV or Parker, it managed to extract the CBS affiliation from KRDK-TV and direct that the affiliation go to its own station's multicast channel. Attached hereto at Exhibit 1 are copies of local press coverage, including coverage in press owned by Gray, of the affiliation change. In all of these articles, Gray makes it clear that it is Gray that is in control of this process. At the same time that Gray was touting its orchestration of the sale of KRDK-TV to a member of minority group, it also was removing one of the station's most valuable assets. Gray itself remarked at the time that a station in the market without a network affiliation would not be a viable competitor. *See, Fargo NBC Affiliate to Swallow CBS Station's Programming After FCC Ruling*, attached hereto at Exhibit 1. Thus, while apparently increasing both competition and minority ownership of television stations, Gray made sure that any real competition was squelched by removing the valuable assets from the station being sold. Plus, all of these actions were undertaken while Gray, at least theoretically, did not control the station in question. Now Gray is trying to complete its appropriation of KRDK-TV's assets by taking away its valuable low-numbered major channel number. Such arrogance and cynicism cannot be rewarded.

Moreover, Gray's actions smack only of unfair trade practices. Gray filed its complaint only after Parker asserted its rights to mandatory carriage on its major channel. Parker has received communications from cable companies in which the cable companies indicated that Gray had contacted them in an attempt to keep them from carrying KRDK-TV. Attached hereto as Exhibit 2 is an example of such a communication. The Commission has previously afforded licensees the right to choose their PSIP major channels for channel placement purposes.

Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules, 23 FCC Rcd 14252, 14260 (2008). Gray, on the other hand, has no right to particular channel placement because it operates pursuant to a retransmission consent agreement. Instead,

once it has appropriated the network affiliation agreement, it simply slid into KRDK-TV's channel placement while the station was temporarily silent. Then, when KRDK-TV returned to the air and started to assert its rights, Gray saw its current cozy arrangement threatened and filed its Petition. Just as Gray has no actual rights to placement on a particular channel, however, it has no rights to the relief it has requested.

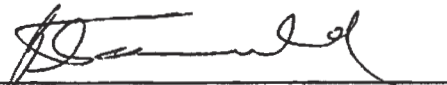
In sum, Gray is here engaging in egregious anti-competitive behavior which should not be rewarded. Having first touted the sale of KRDK-TV to Parker's current minority ownership, and having pointed to increased competition in the market, Gray is attempting to eviscerate Parker's actual ability to compete in the market. After somehow removing the CBS network affiliation from a station it did not own or control, Gray is now trying to add insult to injury by also taking Parker's PSIP major channel for its own use as a second major channel, and it is using its own actions in taking that affiliation agreement at justification for such an extraordinary move. The PSIP standard as set forth in ATSC A/65C makes no provision whatsoever for such a move, however. Likewise, there is no justification of a waiver of that standard, as there are no extraordinary circumstances here, aside from Gray's own arrogance, and greater confusion would be created by its proposed "solution" than would be created by simply maintaining the *status quo*.

The bottom line is that contrary to what Gray is urging, virtual channel numbers belong to stations, not networks. Channel 4 has belonged to KRDK-TV all along, is consistent with the ATSC standard, and cannot be removed from KRDK-TV over KRDK-TV's objection.

WHEREFORE, the premises considered, the Commission must deny Gray's Petition and leave the KRDK-TV PSIP major channel unaltered.

Respectfully submitted,

PARKER BROADCASTING OF
DAKOTA LICENSE, LLC

By: 
Davina S. Sashkin
Peter Tannenwald
Anne Goodwin Crump

Its Attorneys

FLETCHER, HEALD & HILDRETH, P.L.C.
1300 North Seventeenth Street – Eleventh Floor
Arlington, Virginia 22209
(703) 812-0400

October 21, 2015

EXHIBIT 1



KXJB sold: CBS programming will live on as KX4

By Dave Olson on Sep 2, 2014 at 6:01 p.m.

FARGO - Gray Television, the company that owns local NBC affiliate KVLV Valley News Live, has found a buyer for CBS affiliate KXJB Channel 4 in Fargo - Major Market Broadcasting Inc.

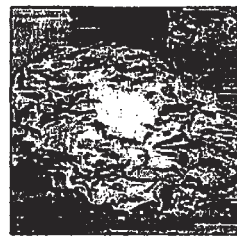
For 90 percent of current KXJB viewers - those who watch the station over cable or satellite - the sale will result in no noticeable changes as far as existing programming, said Jim Wareham, president of Valley News Live.

At some point in coming weeks, viewers who watch KXJB over the regular airwaves will have to reset their TV's digital receiver to 11.2, the digital subchannel the brand KX4 will move to, Wareham said.

As part of that change, he said, Me-TV, which is now viewed over the air on subchannel 11.2, will move to subchannel 11.3.

When KX4 is moved to subchannel 11.2, it will continue to air simultaneously on regular channel 4 for a time. After the first of the year, KXJB on channel 4 will go dark until Major Market Broadcasting brings it back on the air with new

Magnolia
Butterfly
Oval Rug,
5' x...



~~\$649.00~~ ~~\$950.00~~
Free Standard
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programming, said Wareham, who added he doesn't know what that new programming will be.

He stressed that after the first of the year KVLV will continue to broadcast on regular channel 11, while CBS programming under the brand KX4 will continue on 11.2 and Me-TV will continue on 11.3.

Wareham said because of advancements in technology, all three stations will broadcast over the same bandwidth KVLV previously occupied.

Information posted on the Gray Television website states that Major Market Broadcasting, which will own and operate KXJB on regular channel 4, is a content creation and distribution company specializing in reaching niche markets.

The website said MMB owns and/or operates KAXT-CA in San Francisco and KRJK-LP in Chicago. Those MMB stations and others broadcast programming from MMB's Diya TV network, a South Asian television network.

In addition to the KXJB deal, Gray Television said it is transferring ownership of two other North Dakota TV stations – KNDX in Bismarck and KXND in Minot – to Legacy Broadcasting LLC, a newly formed company owned and controlled by experienced broadcasters Sherry Nelson and her daughter, Sara Jane Ingram.

Terms of the deals were not disclosed.

Earlier this year, prior to announcement of the sale of KXJB to MMB, Gray Television said it was moving KX4 to its digital subchannel 11.2 as part of

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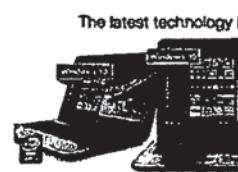
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a move to disband a shared service agreement KVLV and KXJB have operated under.

The Federal Communications Commission is putting an end to such collaborations, stating they stifle competition.

Dave Olson

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Published July 14, 2014, 08:06 AM

Fargo NBC affiliate to swallow CBS station's programming after FCC ruling

FARGO, N.D. — The local NBC affiliate television station is putting the CBS affiliate on one of its digital subchannels in the wake of a controversial Federal Communications Commission decision.

By: Adrian Glass-Moore, Forum News Service

FARGO, N.D. — The local NBC affiliate television station is putting the CBS affiliate on one of its digital subchannels in the wake of a controversial Federal Communications Commission decision.

KXJB's programming will be transferred to KVLV in the coming months and will broadcast as one of KVLV's multicast channels; but 80 percent of viewers won't even notice the change, said Jim Wareham, president of Valley News Live.

Wareham said cable and satellite customers will see no change, and those who get TV over the air via antenna will be able to find KXJB on channel 11.2 instead of channel 4 if they reset their devices.

"Nine in ten people will never know anything has happened," Wareham said in a phone interview Friday.

"It would be our expectation that consumers won't see any change whatsoever," said Kevin Latek, senior vice president of business affairs for Gray Television, KVLV's owner.

Gray says the decision is caused by the FCC's new restrictions on collaboration between TV stations.

Shared service and joint sales agreements, or SSAs and JSAs, previously allowed two stations to share an office and sell advertising together, thereby reducing costs. KVLV and KXJB operated under such agreements until the FCC put an end to them in late March, saying they stifled competition.

Latek said KXJB's programming will be swallowed by KVLV because operating independently without agreements is not financially viable.

The proposed deal gives "Gray Television ... a greater share of local advertising revenue," according to a statement last month by FCC Commissioners Ajit Pai and Michael O'Reilly, who oppose the ban on JSAs. "Are these the victories for competition that critics of sharing agreements were hoping to see?"

"Without the JSAs, the determination was made that one of the two stations would not be profitable to operate, and that's why it's going dark," said Matthew Berry, a spokesman for Pai.

Wareham said the term "going dark" doesn't apply here, since KXJB programming will continue to be available and few will tell the difference.

Two local TV providers confirmed that the CBS affiliate would not be disappearing from customers' TV sets in light of this change.

"My guess is that we will continue carrying CBS programming," said Tom Simmons, senior vice president of public policy at Midcontinent Communications, a cable provider.

Satellite provider DirecTV said it "will continue to work with Gray to successfully transition the channels if the transfer is approved."

CableOne could not be reached for comment, and Dish said it is not "aware of planned changes for local stations in Fargo."

"Most cable operators are providing multicast channels," said Robert Follard, an FCC attorney with Cooley, LLP, which represents Gray. Cooley also represents Forum Communications Co., which owns Forum News Service.

With KXJB's move along the digital spectrum, new programming may soon come to Fargo. Gray wants to transfer KXJB's FCC license to a school, religious institution or minority broadcaster at a low price in an effort to "expand diversity in broadcast ownership," Latek stated in a news release.

David Honig, president of Minority Media and Telecommunications Council, has been tapped by Gray to find that new owner.

He said over-the-air digital antenna users will hopefully only see channel 4 go dark for a short period of time, between KXJB programming's move to KVLV's subchannel and the sale of the FCC license to a new owner.

Once a buyer is found, Honig said, customers will gain a "new station ... and its subchannels, and that'll all be new."

"That's the good news," he said.

Gray has been consolidating stations in other parts of the state.

Programming that used to appear independently on KNDX in Bismarck and KXND in Minot are now broadcast as subchannels of two Gray-owned stations, according to the FCC statement by Pai and O'Reilly.

When Gray bought five North Dakota stations last November, it wanted to continue existing SSAs and JSAs. Gray bought KVLV from Hoak Media, and Excalibur Broadcasting was supposed to buy KXJB from Parker Broadcasting. That way, Gray and Excalibur could continue the existing partnership between the two stations.

But the FCC's ban on collaborative agreements changed those plans. In response, Excalibur declined to purchase KXJB.

Its original plan having disintegrated, Gray announced June 13 it would place KXJB programming on a KVLV digital subchannel.

Honig said the FCC has not addressed media companies' use of multicast channels to broadcasting programming from various major networks.

"It kind of left that loophole in the rules," Honig said.

The Gray-owned stations in Bismarck and Minot now each provide both NBC and FOX programming. In Fargo, Gray will provide both NBC and CBS programming.

Tags: television station, valley news live, federal communications commission, gray television, hoak media, business, updates, cbs, television, channels, kxjb, satellite, viewers, antenna, broadcast, cable, fcc, advertising, agreements, revenue, digital, networks

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EXHIBIT 2

Anne Crump

Subject: FW: BEK - notification of channel number change for CBS

----- Forwarded message -----

From: Derrick Bulawa <derrick@bektel.coop>
Date: Wed, Sep 16, 2015 at 3:07 PM
Subject: FW: BEK - notification of channel number change for CBS
To: "Ravi(FrgoTV) Kapur (ravi@chicago22.com)" <ravi@chicago22.com>

From: Carmen Biesterfeld
Sent: Wednesday, September 16, 2015 12:07 PM
To: Derrick Bulawa; Tom Steinolfson
Cc: Monte Rogneby
Subject: FW: BEK - notification of channel number change for CBS

FYI on where CBS stands in regards to CH #4....



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From: Pam Tesch [mailto:pamt@valleynewslive.com]
Sent: Wednesday, September 16, 2015 11:56 AM

To: jimw@valleynewslive.com; Carmen Biesterfeld
Subject: RE: BEK - notification of channel number change for CBS

Dear Ms. Biesterfeld,

I am sure you have received a notice from the licensee of KRDK-TV demanding that your cable system launch KRDK-TV on Channel 4, which would require that your system relocate our CBS station KX4.

We intend to fight KRDK-TV's claim for carriage on Channel 4 at the FCC aggressively. Next week, we will file a request that the FCC change the over-the-air virtual or PSIP channel for KRDK from Channel 4 to Channel 38. You will receive a copy of that request in the mail. My lawyer tells me we have a strong case and that the FCC has granted similar requests for my company in other markets. If the FCC grants our request, KRDK would have no right to demand carriage on Channel 4 as its over-the-air channel. Rather, KRDK's over-the-air channel would become Channel 38.

I think our interests are 100% aligned. I am sure you do not want to disrupt your channel lineup and move CBS from its long-held channel position on Channel 4 and replace it with unproven programming. Your customers will (unfairly) blame you for the channel lineup changes, and we inevitably will lose some viewers as a result of the confusion.

At this point, all I ask is that you do nothing. Once we file our request with the FCC next week, there will be an active dispute over the channel position rights for KRDK-TV. It makes no sense for you to change your lineup and add KRDK to channel 4 only to find out a few months later that in fact the station had no right to channel 4.

In these situations where there is a legitimate dispute over competing channel rights, FCC rules are very clear. KRDK-TV must file a complaint with the FCC asserting its right to Channel 4, and then the FCC will decide whether the complaint is valid or not. Rest assured, we will oppose at the FCC any complaint that KRDK files. You will not need to file anything at the FCC. Of course, if you want to file something at the FCC, your support would be welcomed.

If you have questions about our approach, please give me a call. Also, if you feel you must move KX4 off channel 4, I would appreciate a heads up, so we can alert our viewers.

Regards,

Jim

Jim Wareham

Vice President / General Manager

KVLY(NBC) KXJB(CBS) MeTV

1350 21st Avenue South

Fargo, ND 58103

701-237-5211 ext. 120

701-232-0493 (fax)

jimw@valleynewslive.com

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From: Carmen Biesterfeld [<mailto:carmenb@bektel.coop>]

Sent: Wednesday, September 16, 2015 11:08 AM

To: jimw@valleynewslive.com

Subject: FW: BEK - notification of channel number change for CBS

Hi Jim,

I sent this to Dick since I dealt with him on the retransmission agreement for the Fargo DMA – forgot he retired in June. I apologize for missing the boat and not sending it to you initially.



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From: Carmen Biesterfeld
Sent: Tuesday, August 25, 2015 11:43 AM
To: 'Dick Heidt'
Subject: BEK - notification of channel number change for CBS

Hi Dick,

I received a "must carry" notice requesting carriage on channel 4 in the Fargo-Valley City DMA. To comply with their request, I will need to move CBS from channel 4 to channel 3. This change should take effect the end of September, first part of October. When I get a more definitive date, I'll pass it along to you.

Thank you



CERTIFICATE OF SERVICE

I, Deborah N. Lunt, Assistant at the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby state that a true copy of the foregoing Opposition to Petition for Waiver was served by first-class U.S. mail, postage prepaid, unless otherwise indicated, on the 21st day of October, 2015, on the following:

Barbara Kreisman*
Chief, Video Division
Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Adrienne Denysyk*
Video Division, Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Hossein Hashemzadeh*
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

William Lake*
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Robert J. Folliard III, Esq.
Dow Lohnes PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036

Midcontinent Communications
ATTN: General Counsel
3901 North Louise Avenue
Sioux Falls, SD 57107

DISH Network, LLC
ATTN: SVP Media Sales & Programming
9601 S. Meridian Blvd.
Englewood, CO 80112

BEK Communications Coop
PO Box 230
Stelle, ND 58482

Midcontinent Communications
ATTN: Director of Programming
3600 Minnesota Drive
Suite 700
Minneapolis, MN 55435

DIRECTV, LLC
ATTN: VP, Content & Programming
Local Into Local
2260 East Imperial Highway
El Segundo, CA 90245

Barnesville Cable TV
102 Front Street N.
Barnesville, MN 56514

Bagley Public Utilities
PO Box M
Bagley, MN 56621

Cable Services, Inc.
PO Box 608
Jamestown, ND 58402

Federated Telephone
PO Box 156
Chokio, MN 56221

MLGC, LLC
301 Dewey Street
Enderlin, ND 58027-1153

Otter Com, Inc.
d/b/a Valley Telephone
PO Box 277
Underwood, MN 56586

Red River Rural Telephone Assoc.
(Red River Communications)
510 Broadway
Abercrombie, ND 58001

Sjoberg's Inc.
315 North Main Avenue
Thief River Falls, MN 56701

West Central Telephone Association
308 Frontage Road
Sebeka, MN 56477

City of Fosston
220 East First Street
Fosston, MN 56542

Dickey Rural Services, Inc.
PO Box 69
Ellendale, ND 58436

Halstad Telephone Company
345 2nd Avenue W
Halstad, MN 56548

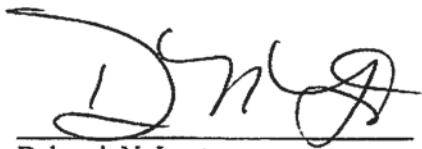
Otter Com, Inc.
PO Box 277
Underwood, MN 56586

Paul Bunyan Rural Telephone Cooperative
1831 Anne Street, NW
Bemidji, MN 56601

Runestone Telecom Association
PO Box 336
Hoffman, MN 56339

United Telephone Mutual Aid Corp.
411 7th Avenue
Langdon, ND 58249

Wikstrom Systems LLC
212 Main Street South
Karlstad, MN 56732


Deborah N. Lunt

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EXHIBIT 2



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FX:701•461•7005
www.cableone.net

February 11, 2016

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ravi Kapur, President
KRDK-TV
Major Market Broadcasting of North Dakota, Inc.
Parker Broadcasting of Dakota Licensee, LLC
2118 Walsh Avenue, Suite 208
Santa Clara, California 95050

Re: KRDK-TV Carriage Demand

Dear Mr. Kapur,

I am writing in response to your January 25, 2016 correspondence and to explain why Cable One's Fargo, North Dakota system is unable to honor KRDK-TV's demand to be carried on channel 4 on that system at this time. Cable One currently has a carriage agreement with Gray Television Group, Inc., parent of Gray Television Licensee, LLC, the licensee of Fargo television station KVLV-TV, obligating Cable One to carry KVLV-TV's multicast channel KX4's CBS network affiliated programming on channel 4 through the end of the current must-carry/retransmission consent cycle. In honor of that agreement, Cable One is currently transmitting KX4's programming on channel 4 and will do so through ending December 31, 2017, the end of the current cycle.

We are indeed aware of the pending waiver request and petition filed by Gray Television Group requesting the Federal Communications Commission ("FCC") reassign virtual channel 4 from your station and assign it to KX4. Given the obvious uncertainty surrounding which entity possesses the channel 4 carriage rights in the Fargo-Valley City, North Dakota Designated Market Area, Cable One is unwilling at this time to remove the KX4 programming from channel 4 and replace it with KRDK-TV. Hopefully the FCC will resolve the channel position issue soon and the issue will be clarified for all parties. If FCC does so in KRDK-TV's favor, we will certainly begin the process of placing the station's signal on channel 4.

If you would like to discuss this matter further or to discuss alternative channel placement options, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Geston".

Scott Geston
General Manager

CERTIFICATE OF SERVICE

I, Davina S. Sashkin, hereby certify that on this 2nd day of March, 2016, I caused a copy of the foregoing “Must Carry Complaint” to be served via U.S. mail, postage prepaid, upon the following:

KBRR, KJRR, KNRR, KVR Red River Broadcast Co., LLC P.O. Box 9115 Fargo, ND 58106	KCPM G.I.G. of North Dakota, LLC P.O. Box 88336 Sioux Falls, SD 57109
KVLY-TV Gray Television Licensee, LLC 4370 Peachtree Rd NE Atlanta, GA 30319	WDAY-TV, WDAZ-TV Forum Communications Company 301 8 th St. S PO Box 2466 Fargo, ND 58103
Tekstar Communications, Inc. 150 Second Avenue Southwest Perham, MN 56573	Lortel Systems, Inc. 13 E. 4 th Ave, Box 72 Ada, MN 56510
Cable One, Inc. 210 E. Earll Drive Phoenix, AZ 85012	City of Barnesville MN 102 Front St N, PO 550 Barnesville, MN 56514
Cable One, Inc. 1314 North Third Street 3 rd Floor Phoenix, AZ 85004	Viking Electronics Inc 110 4 th Street East Park River, ND 58270
Midcontinent Communications 3901 North Louise Ave Sioux Falls, SD 57107	Garden Valley Telephone Company 201 Ross Avenue PO Box 259 Erskine, MN 56535
City of Bagley Minnesota-Public Utilities Dept 18 Main Ave S PO Box M Bagley, MN 56621	Sjobergs Cablevision Inc 315 North Main Avenue Thief River Falls, MN 56701
Wikstrom Systems LLC 212 South Main PO Box 217 Karlstad, MN 56732	City of Fosston Minnesota 220 East First St Fosston, MN 56542

Otter Com Inc. 100 Main Street Underwood, MN 56586	Red River Rural Telephone Association 510 Broadway PO Box 136 Abercrombie, ND 58001
Cable Services In PO Box 608 Jamestown, ND 58402	Daktel Communications, LLC 630 5 th St N PO Box 299 Carrington, ND 58421
Dickey Rural Services, Inc 9628 Hwy 281 PO Box 69 Ellendale, ND 58436	Maddock Area Development Corp 306 2 nd St Maddock, ND 58348
NDTC 211 22 nd Street NW PO Box 180 Devils Lake, ND 58301	MLGC LLC 301 Dewey Street Enderlin, ND 58027
United Telephone Mutual Aid Corp 411 7 th Avenue PO Box 729 Langdon, ND 58249	Central Dakota TV Inc. 630 5 th St N PO Box 299 Carrington, ND 58421
DISH Network, L.L.C. 9601 S. Meridian Blvd. Englewood, CO 80112	DIRECTV, Inc. 2260 E. Imperial Hwy El Segundo, CA 90245
Bek Communications Cooperative 200 E Broadway PO Box 230 Steele, ND 58482	Fargo City Commission 200 North Third Street Fargo, ND 58102
West Fargo City Commission 800 4 Avenue East Suite 1 West Fargo, ND 58078	City Manager City of Moorhead 500 Center Avenue 3 rd Floor Moorhead, MN 56560
City Administrator City of Dilworth PO Box 187 2 1 st Avenue SE Dilworth, MN 56529	Cass County Commission Cass County Courthouse 211 9 th Street South Fargo, ND 58103

City of Prairie Rose 3287 41 st Avenue South Prairie Rose, ND 58104	City of Frontier 5202 32 nd Street S Frontier, ND 58104
City of Briarwood 8 Briarwood Place Briarwood, ND 58104	Melissa Quern Clerk, Reed Township 413 19 th Ave NW West Fargo, ND 58102

/s/ Davina S. Sashkin